

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 09-373 (1) (RHK/FLN)

Plaintiff,

ORDER

v.

Guillermo Villanueva-Garcia,

Defendant.

Before the Court is Defendant's Motion under 28 U.S.C. § 2255, seeking relief from the statutory mandatory minimum sentence imposed following his plea of guilty to possession with the intent to distribute 100 or more kilograms of marijuana. The thrust of the instant motion is the Court's denial of his entitlement to the so-called safety valve which, if applicable, would have eliminated the mandatory minimum sentence of 60 months. The Court determined that Defendant had been evasive and not truthful during his "proffer" session with the Government. Defendant styles the argument as ineffective assistance of counsel, but there was nothing ineffective in the manner his counsel represented him. He simply did not fully and truthfully provide the Government with the required information. The Motion is without merit and will be denied.

Based on the foregoing, and on all the files, records and proceedings herein, including a transcript of the March 1, 2010, Change of Plea hearing, **IT IS ORDERED:**

1. Defendant's Motion (Doc. No. 225) is **DENIED**; and
2. The Court **DECLINES** to issue a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 20, 2012

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge